

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KIM DEPRIMA,

Plaintiff,

-against-

CITY OF NEW YORK DEPARTMENT OF
EDUCATION,

Defendant.
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**DECLARATION OF
BENJAMIN WELIKSON IN
SUPPORT OF
DEFENDANT’S MOTION TO
DISMISS THE SECOND
AMENDED COMPLAINT**

12-CV-3626 (MKB)(LB)

BENJAMIN WELIKSON declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City of New York Department of Education (“DOE”) in the above-captioned action. I submit this declaration in support of defendant’s motion to dismiss the Second Amended Complaint, pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure.

2. Annexed hereto as Exhibits “1” through “5” are documents maintained in the ordinary course of defendants’ business and publicly available documents which are relied upon and cited in defendant’s memorandum of law. These documents and excerpts are as follows.

3. Annexed hereto as Exhibit “1” is a copy of the Article 75 petition filed by plaintiff in *DePrima v. New York City Dep’t o Educ.*, Sup Ct, Richmond County, Mar. 21, 2012, Minardo, J. Index No. 80343/11).

4. Annexed hereto as Exhibit “2” is copy of plaintiff’s opposition to the DOE’s cross-motion to dismiss plaintiff’s Article 75 petition filed by plaintiff in connection with her Article 75 proceeding, *DePrima v. New York City Dep’t o Educ.*, Sup Ct, Richmond County, Mar. 21, 2012, Minardo, J. Index No. 80343/11).

5. Annexed hereto as Exhibit “3” is copy of the Decision and Order dated March 21, 2012, dismissing plaintiff’s Article 75 petition in *DePrima v. New York City Dep’t of Educ.*, Sup Ct, Richmond County, Mar. 21, 2012, Minardo, J. Index No. 80343/11).

6. Annexed hereto as Exhibit “4” is copy of the administrative complaint plaintiff filed with the New York State Division of Human Rights, dated as received on February 15, 2012, captioned *De Prima v. City of New York Department of Education*, Case No. 10153338.

7. Annexed hereto as Exhibit “5” is copy of the New York State Division of Human Rights’ Determination and Order After Investigation, dated May 17, 2012 in *De Prima v. City of New York Department of Education*, Case No. 10153338.

Dated: New York, New York
March 1, 2013

/s
Benjamin Welikson
Assistant Corporation Counsel